

IN THE CROWN COURT AT SOUTHAMPTON

Southampton Combined Court Centre
The Courts of Justice
London Road
Southampton
Hampshire
SO15 2XQ

BEFORE:

HIS HONOUR JUDGE ROWLAND

BETWEEN:

R

PROSECUTION

- and -

J

N

E

DEFENDANTS

Legal Representation

Miss Jodie Mittell KC (Barrister) on behalf of the Prosecution
Miss Francisca Maria da Costa (Barrister) on behalf of the Prosecution
Mr Thomas *Iain* Evans (Barrister) on behalf of the Defendant (J)
Mr E Joseph Aloysius Henry KC (Barrister) on behalf of the Defendant (N)
Miss Bosmath Sheffi (Barrister) on behalf of the Defendant (N)
Miss Tracy Jane Ayling KC (Barrister) on behalf of the Defendant (E)
Miss Verity Anne Fowler-Rouault (Barrister) on behalf of the Defendant (E)

Other Parties Present and their status

None known

Sentencing Remarks

Hearing date: 21 May 2026

(start and end times cannot be noted as extract from existing copy of whole hearing transcript)

Reporting Restrictions Applied: Yes

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His Honour Judge Rowland:

A

Part 1

All right. Now, J, N and E, please stay sitting down.

B

I have to tell you what you must do now because of the serious things that you did which were against the law.

C

At the trial we heard about what you did and so I do not need to go over it again, except where there are things I need to explain. It is important that everyone, not just in this courtroom, understands what I have decided to do. I will try not to use difficult words which you may not follow, but if I do I know that your barristers will explain later what I have said. Once I have told you what is to happen we will have a break and then I will explain, in much longer, these things in other words. You do not have to be there for that part. Your barristers will be here and they will explain to you the details of what I have said.

D

E

Now before the trial I read a lot about you in reports from doctors and other expert people that means I know a lot about you not just from what was said at the trial and I know a lot about the girls as well, C and L. All of that helps me to decide what should happen to you today. I have listened to what has been said by the barristers they have also put a lot of things onto the computer, I have read it all today, before today even if I do not mention it when I am talking to you now.

F

G

What I have to do is to stick to rules that tell me what I should do because of those serious things that happened in November 2024 and January 2025. They also tell me, those rules, about what I should do with children and young people, and also children who may have difficulties with thinking and understanding things. I need to work out anything that makes what you did more or less serious. Then I have to think hard about your lives and why you might have done what you did. And whatever I decide to do the rules mean that I have to find the shortest and best thing for you to do. Those are the rules. And for children I have to remember you are not small adults and I must try to see how likely it is that you would do serious things again and I need to try to make sure that you will not do those serious things again. I have try to do what is good for you and for everyone else in the future, and I must also remember what happened to C and L and the effect on them of these serious things.

H

A There are two parts to this case:

Part 1

B November of 2024 for J and N. C was just 15, she had been messaging J and went to meet J for the first time in Fordingbridge. Perhaps not surprisingly, she was expecting the two of you to be alone. She agreed but she was reluctant to do sexual things with J to begin with when you were alone. But then later in the day, N and another boy, not E, came along and the jury decided that you, J and N, did sexual things to her which she did not agree to. Then **C** you both recorded part of what happened on a phone, and you agreed that you had done that before the trial that makes what happened more serious. C should have been able to choose what she would do. The serious things you both did meant that she could not choose and that is why they are so serious. You did not know about C's background. I have read a statement **D** from C about the effect what happened to her and she has bravely come to court today to read that out. I must remember that when deciding what to do with you J and N and I hope you were listening very carefully to C today when she read out that statement and what I said to her. She has been extremely brave today and at the trial, which is not how you two were behaving in November of 2024 and January of 2025. **E**

Part 2

F Part 2 has got two bits to it. L was 14 she had run away from home before and had problems in her life. You boys did not know that. L's mother had taken her smartphone and told her to use a tagging device, with what she now had was a basic phone. L put those items in the Co-Op she did that herself, none of you boys made her do that. L said she was made to go with you because someone showed her a knife. I listened very carefully at the trial to what **G** people said. I looked the at CCTV very carefully so I am sure that that did not happen. If someone did have a knife it was only used to cut her trousers and I am sure that they were made to do sexual things because she was shown the knife. If someone had used a knife in that way, my decision today would be different.

H Now, again to begin with I am sure that L wanted to do sexual things with J and said that to the group of children there. J was not quite so sure and on the field L did agree to doing a sexual thing when it was just you and her, J. The jury then decided that she agreed to do

something with J and N, but then they decided that as it went on, she did not agree to different sexual things.

A

She was filmed, again, which makes it more serious. N and you agreed that there had been filming. The jury decided that J had encouraged N to do that. Once that first bit had finished, there was a gap and then L went back to the field with N and E. More sexual things happened that L did not agree with and there was more filming by N and E, who was encouraging, and they admitted that they had done that.

B

And again L should have been able to choose what she wanted to do. But because of what all three boys did she was not able to choose when she should have been. I have read a statement by L as to the effect of what happened to her, Miss da Costa read out so everybody can hear what she said. I must remember that when deciding what to do and hope all three of you boys listened very carefully to what L said bravely in her statement.

C

Now the rules, the barristers have written how I should decide the rules about children and the serious things that you did. I must do what is most likely to make sure you do not do these things again and work out what is best for you. I also have to decide whether what you did was so serious that you need to go away from your homes. And that mean prison, you all know what that means. N and J you have been to the equivalent of a young person's prison already in relation to this case.

D

E

In deciding that, I have read all the things that people have written about you, even though you did do these things and I have also read about difficulties you each have. To begin with each of you was very young at the time you did these things, none of you had been in any big trouble before. Not been in any trouble after January of last year. You have all done well to stick to the rules since January of last year where you could live, what time you could go out. J and N spent some time in that young person's prison, and so I have to remember that when I decide what you should do now.

F

G

Your families have been helping you, I saw them when the trial was going on for all those weeks and they should be trying to help you even more now. I have read what doctors have said, that each of you have problems to do with thinking, N and E your problems are really quite bad. I have decided that none of you need to go to prison today. Instead, I am going to make you speak to people like Janine, who J has met. Jon for N and Michelle for E and they

H

A will make sure that you do things so that you do not do the things that the jury decided you did do. But they will also make sure that you have a punishment for the serious things that you did.

B So it is not easy, the outcome of today, what it is that you have to do. For J and N you will for the next three years have to do as you are told by Janine and Jon. For E it will be a year and a half. Those are long times and they are meant to be. I am not going to go through now what it is that you must do and what you must not do, because later on I am going to go through that in detail. Your barristers will tell you about that. Let me tell you what will happen if you do not do those things that you are told to do or if you do something you are not supposed to do. You will come back to court and then you might well go to a young person's prison.

C So far as N and J are concerned you must not try to contact C or L that would be for a period of 10 years, there will be no contact anyway but that is what the law says I should do. For E, you must not try to contact L again for a period of 10 years, there may be other things that happened as a result of what I have decided today, you will find out about that later on today. Now is anything else that I need to say while the young people are in court?

E **Miss Mittell:** Perhaps not. It, it may be that I, because Your Honour has read it out, written it down slightly wrong. There are a couple of Your Honour's observations that I would like to clarify --

F **His Honour Judge Rowland:** Yes.

Miss Mittell: But I am happy to deal with that after --

G **His Honour Judge Rowland:** Certainly. Certainly do that.

Miss Mittell: The boys have left, if, if Your Honour's content.

H **His Honour Judge Rowland:** Yeah, certainly we can do that.

(proceedings continue)

(adjournment)

A
(proceedings continue)

Part 2

B **His Honour Judge Rowland:** All right. So, anything else anybody else would like to say?

(no audible response)

C **His Honour Judge Rowland:** No. Right.

D
In that case, I have sentenced three children for a total of 17 sexual offences committed in relations to two girls. I have split this process into two so that the children learned their respective fates in language that I tried to ensure they would understand. I have excused them from this second part of the sentencing exercise so that I can now deliver remarks that will explain why I have reached the conclusions I have.

E
As well as trying this lengthy case I dealt with a number of hearings before the trial involving applications for intermediaries and bail. Therefore, I know a great deal about each of the boys and indeed the girls, aside from what emerged at the trial. A number of reports have been uploaded in preparation for sentence which have informed my decisions further. I have read everything that has been uploaded.

F
I have been greatly assisted by comprehensive sentencing notes which have meant that oral submissions have been significantly shortened. I have taken into account everything I have read, whether or not I make specific reference to any part of it in these remarks.

G
I have been referred to number of authorities. They have been of assistance in identifying the principles which have guided my approach to sentencing. Of less assistance have being factual sentencing decisions reached by other judges. Each case is to be decided on its own facts. A trite but important observation. Submissions have been advanced in relation to *RDP*.

H
By a third sentencing note, the Prosecution maintain their reliance on that authority, saying that it has substantial applications to this case but concede that there is merit in the other cases referred to by the defence teams.

A I do not propose that distinguished that case by carrying out a close analysis. It is very different on its facts and the make-up of the appellant. I am required to apply the guidelines to the present Defendants' sentences. There is a very particular factual matrix in this case I am sentencing and I will attend to that when I considering J's mitigation. His defence team have kindly responded to my invitation to assist me with an analysis of the various verdicts and how they might be interpreted.

B

C I will set out the facts only when necessary to do so to enable the sentences to be understood. When I set out those facts it will be apparent that I have made findings in accordance with the criminal standard.

The convictions

D The case is divided into two parts.

Part 1 - November 2024

E C, then 15, is the victim in the first part, which goes back to 26 November 2024. She had been in contact with J and went to meet him for the first time in Fordingbridge. She was expecting the two of them to be alone. She had sex with J with consent to begin with, in the open. I refer to that, given the submissions made on the half of J. The fact of previous consenting sexual activity does not provide mitigation in itself. It may be relevant to interpretation of the jury's verdicts and therefore culpability.

F

G Then later in the day, N and another boy, not E, appeared. that boy was not prosecuted. C was raped by J and N orally with J as the principle and N the encourager and then by N alone orally and vaginally. J and N recorded part of what happened. J was acquitted of the vaginal raped C and assisting the vaginal and oral rape of C.

C, sadly, had a serious episode in her past. It was not something known to either J or N.

H The impact on C is set out in her statement. I have considered it carefully. I have also seen a harmed person statement.

A I move to part 2 which itself is split into two phases in terms of the offending. J and N feature in phase 1. N and E feature in phase 2.

B L is the victim. She was 14, she had a history of running away from home. This was not known to any boy. Her mother had taken away her smartphone and told her to use a tagging device with her now basic phone. L put those items in the Co-Op by choice, not as a result of pressure from a boy.

C Now, L alleged she was forced at knife point to go with the boys at the outset and then participate in nonconsensual sexual activity. I am sure this did not happen. I am sure that even if a knife was present it formed no part in any alleged kidnap and then forced sexual activity in any of the phases. There was no kidnap. At the very most, an implement might have been used to cut her leggings. Even then there was unchallenged evidence that L was seen with torn leggings at a time before the alleged offences, which resulted in convictions for some.

D Of note, the older two boys were sent for trial additionally in relation to allegations of kidnap, making a threat to kill and for J possession of a knife. Perhaps not surprisingly, these allegations did not find their way onto any of the many indictments in this case and in making these findings as to L's account, I really do no more than reflect the uncontroverted evidence at trial, which it seems to me I am best placed to assess. Clearly, if there had been a knife in evidence during sexual offending in any of the phases, and it was attributable to a particular defendant, the outcome of this hearing would be very different for that defendant.

E I am sure L was interested having sexual activity with J, and made that clear to him and others. I emphasise what I said earlier respected of part 1. Consent is situation specific. The fact of initial consent provides no mitigation in itself. Depending upon an interpretation of the jury's verdict it may reduce culpability. J was apparently reluctant at first, but ultimately L and J had consensual sexual activity in the form of oral sex, or as submitted on behalf of J, sexual intercourse, away from the group before the phase 1 offending. L was seen holding hands with J following that sexual activity as she had been before it. The position and indeed L's demeanour, changed later after phase 1.

A J and N were then present together in phase 1. They were acquitted of count 5, oral rape, meaning that even in phase 1, the jury could not be sure there was non-consenting sexual activity between L and those two boys before consent was withdrawn. There was filming in phase 1. On behalf of J it is submitted that filming was the catalyst for each victim to withdraw consent. A cogent interpretation of the verdicts.

B J was convicted of vaginal rape in phase 1 with N as an encourager. J then left the scene.

In phase 2 N vaginally and orally raped L. E was an encourager only. There was filming by N in phase 2 with E again as an encourager.

C The impact on L is set out in her statement. Again, I have considered it carefully and I have read the harmed person statement.

D My task

In order to pass the appropriate sentence for these offences I am required to apply the appropriate guidelines as follows.

- E**
- i) The sentencing children and young people;
 - ii) Sexual offences - Sentencing children and young people
 - iii) Sentencing offenders with mental disorders, developmental disorder and neurological impairments

F

The guidelines for the offences of rape and making indecent images of children are for adults and do not apply, given the ages of the children. In *Grace* the Court of Appeal Criminal Division confirmed that the adult guideline does not dictate whether an offence is so serious that only an immediate custodial sentence can be justified under the children and young people guideline. Nevertheless, it is legitimate to consider the length of the sentence under the adult guideline, adjusted for the offender's youth as of some relevance in assessing the seriousness of the offending when seeking to determine whether only a custodial sentence can be justified.

H

I must consider totality where appropriate.

The children and young people guidelines

A The starting point then is the children and young people guideline. I must have regard to the objectives of youth justice being to prevent offending by children and the welfare of the child. This guideline has been quoted at length in the various notes. I do not propose to recite those quotes but simply highlight certain aspects that have guided my approach.

B In *Price* the Court of Appeal Criminal Division highlighted that part of the guideline which reads as follows:

C “While the seriousness of the offence will be the starting point, the approach to sentencing should be individualistic and focused on the child or young person, as opposed to offence focused. For a child or young person the sentence should focus on rehabilitation where possible. The court should also consider the effect the sentence is likely to have on the child or young person, both positive and negative, as well as any underlying factors contributing to the offending behaviour.”

D

E I should avoid criminalising these children unnecessarily and encourage them to take responsibility for their actions, understand the effects of their behaviour, on the two girls and their families, and promote the boy’s reintegration into society.

F Are there matters which may diminish the culpability of these children? They were immature and may not understand risk taking behaviour. Were they acting impulsively? Peer pressure is an important factor. Children are likely to benefit from the opportunity to address their behaviour, learn from their mistakes and to be receptive to change. Offending by children can often be a phase, the effect of punishment is likely to be felt more heavily by a child.

G When it comes to welfare the following is set out in bold:

H “**In having regard to the welfare of the child or young person, the court should ensure that it is alert to:**

- **any mental health problems or learning difficulties/disabilities.”**

A

Following *JRO* and the guideline, I must consider the respective ages of the children at the time when these offences were committed. As was made clear in that decision, it is not just the chronological age I am concerned with, but emotional and developmental age.

B

I bear in mind the submissions made as to persistent offenders, as I shall explain later E is not a persistent offender. J and N were 15 at the time of conviction. That means there is no requirement for them to be persistent offenders before a custodial sentence or YRO with ISS can be passed. Even if I had determined that they were persistent offenders on the basis of the November and January offences the guideline at 6.10 is clear:

C

“6.10 Even where a child or young person is found to be a persistent offender, a court is not obliged to impose one of the optional sentences. The approach should still be individualistic and all other considerations still apply. **Custodial sentences must be a last resort for all children and young people**, and there is an expectation, that they will be particularly rare for children and young people aged 14 or under.”

D

E

6.2 of the guideline indicates I should take as my starting point the sentence likely to have been imposed on the date at which the offence was committed, hence I need to consider the ages of these children with the offences were committed and proceed on the basis that custody is a last resort.

F

Later in the guideline that principle is restated a paragraph 6.42:

G

“6.42 A custodial sentence must only be imposed as a measure of last resort; statute provides that such a sentence may be imposed only when an offence is so serious that neither a fine alone nor a community sentence, can be justified.”

This reflects domestic and international law.

H

Then at paragraph 6.45:

“6.45 Only if the court is satisfied that the offences cross the custody threshold, and that no other sentence is appropriate, the court may as a

preliminary consideration, consult the equivalent adult guideline, in order to decide upon the appropriate length of sentence”

A

Paragraph 6.46 sets out what is described as a rough guide and suggests reductions in sentences, which should not be applied mechanistically. However, I would only reach that position, if I consider that no other sentence other than a custodial one is appropriate.

B

The Sexual Offences Sentencing Children and Young People guideline

The preamble reminds me of a number of general principles to be borne in mind when dealing with children, including the presence of learning difficulties and peer pressure. In bold, the guideline says this:

C

“The fact that a sentence threshold is crossed does not necessarily mean that that sentence should be imposed”

D

Then I am enjoined to follow a five step process, which I do.

Step 1

E

When assessing the seriousness of the offence the guidelines suggested any form of sexual activity, including penetration, without coercion, exploitation or pressure, may result in a non-custodial sentence.

F

Any penetrative activity involving coercion, exploitation or pressure, use or threats of violence against the victim, or someone known to the victim, prolonged detention/sustained incident, severe psychological or physical harm caused to the victim, may lead to a custodial sentence or YRO with ISS or fostering may be called for.

G

I find that the rape offences fall more obviously into the second category, given pressure which must almost inevitably come with the absence of consent, albeit the guideline does not specifically refer to non consensual penetration. However, there was no violence or exploitation. I have taken account of the victim personal statements, and bear in mind the submissions made on behalf of J at paragraph 18(c) of that note. The references to the principles in *Chall and Others* and *Forbes* are particularly helpful, and have informed my

H

A conclusion on this aspect. To borrow respectively the words of Popplewell LJ at paragraph 28 in *Price*, I do not seek to minimise the effect on each girl when saying it does not reach the high threshold of being severe psychological harm required, by the guideline, adding those words the end.

B Step 2

I consider the aggravating factors:

- C
- i) the children were acting together,
 - ii) there was filming.

D I do not find there was planning in either part. If there was particular vulnerability, and I do not necessarily find there was, the backgrounds that the girls were not known to any of the boys and formed no causal link in the offending.

E I will deal with the mitigating features, no child has any previous findings of guilt. There have been community resolutions for N but I disregard them. There have been alleged incidents involving J but no police involvement and so no charges. Having presided over the trial I have come to the firm conclusion that peer pressure played a large part in what went on. That is an important aspect when dealing with children and is specifically referred to in the guidelines for obvious reasons.

F Step 3

Personal mitigation

G I will deal with this child by child. I repeat that I have had the benefit of reading a wealth of material and full sentencing notes, I will therefore set out mitigation in short form.

J's personal mitigation

H Age 14 years and three months for part 1 and two months older in part 2. He has a close family and positive hobbies.

A During his time remanded to a secure unit in local authority accommodation, he was polite and well mannered, he was compliant and avoided trouble. He has engaged well with his bail conditions. He has been going out to work with his father. He does not have contact with his peer group and has no access to social media.

B He has been assessed by the Youth Justice Services, presenting a medium risk in terms of reoffending and causing harm, but high risk of serious harm to female children. That risk would be reduced if there is continued engagement with the Youth Justice Service.

C It is submitted that J has ADHD and long standing anxiety. A psychological assessment identified anxiety, traits of ADHD and slight cognitive difficulties. I remind myself that the contents of Dr Ward's report at page M54. A diagnosis of ADHD combined type was made. In light of this I must determine whether the guideline Sentencing Offenders with Mental Disorders, Developmental Disorder and Neurological Impairments is engaged. I have considered carefully whether J's culpability was reduced, as a result of any conditions he may have had. There is no evidence in the report that it would have been or from what I made of J in the witness box.

D

E However, I will now deal here with submissions made as to J's culpability by reference to an analysis of the jury's verdicts. On behalf J it is submitted that peer pressure had a role in both parts, it is said that each victim was prepared to engage in consensual sexual activity before filming took place, that is to say J was involved by peer pressure once consent had been withdrawn.

F

In part 1 it is submitted that the jury could not be sure of J's continued participation or encouragement of N following the initial oral rape. In part 2 J had left the scene before phase two.

G

As far as culpability is concerned, it is submitted that participation of others was intrinsic to the offences given that consent was withdrawn once filming by others started. In my judgment there is merit in the analysis of the jury's verdicts, as advanced on behalf of J. That means his culpability is reduced to some extent in both parts.

H

J has spent 462 days, subject to a qualifying curfew, 27 days in detention in local authority accommodation which would not count towards a custodial sentence. Hence an effective

sentence of almost 18 months has been served. That is a significant feature when determining whether an immediate custodial sentence must follow.

A

N's personal mitigation

14 years at the date of the first offence and two months older in part 2.

B

I am reminded of Dr Hathaway's report, that from Anna Markus. His IQ places him in the bottom 1%, compared with his contemporaries. All the other measures place him in no better than the bottom 4%.

C

N has now been diagnosed with ADHD. There is extreme neurodevelopmental impairment. He cannot cope in mainstream education, an ASD screening indicates traits which could be indicative of this condition.

D

Again, I interpolate here the guideline relating to Sentencing Offenders with Mental Disorders, Developmental Disorder and Neurological Impairments. I am quite sure that N's culpability was reduced as result of his profound impairments. His understanding of what went on must have been far more limited than a 14 year old operating at a level without his deficits, and I make my own decision on this aspect. I am not required to follow expert opinion if I do not agree with it. I do not seek to identify the chronological age at which N was operating, notwithstanding the reference in a sentencing note to his mother's opinion, he presented as more like an 8 year old.

E

F

N's impairment affected his ability to exercise appropriate judgement and make rational choices. His ability to understand the nature and consequences of his actions is clearly not that of an unimpaired child. The filming and his behaviour in it clearly reflects this.

G

Moving away from his deficits, he has a closely knit family. He has positive pursuits. He has been home schooled given concerns about his vulnerabilities. He has physical health problems. His response to bail has been exemplary according to the Youth Justice Service officer. He is assessed as presenting a medium risk of reoffending but high risk of harm to young females.

H

A He has spent 461 days on a qualifying curfew, the equivalent to an almost 16 month sentence. 20 days spent in local authority accommodation, which again is not automatically credited, so in all the equivalent of a 17 month sentence has been served. Again, that is a significant feature when determining whether an immediate custodial sentence must follow.

E's personal mitigation

B Examined by Dr Pentaraki, a psychologist. In essence he has very low intellectual capacity, below 5%, when compared with his contemporaries. He has mild cognitive impairment, he had mild to moderate symptoms of anxiety, he shows emotional immaturity.

C The contents of the Pre-Sentence Report are summarised at paragraph 39 of the note. There is no pattern of offending behaviour, is largely disengaged from formal education, he is subjected to peer pressure.

D His understanding of consent is limited. He has difficulties appreciating risk and the seriousness of a situation. His understanding of the seriousness of sexual behaviour was significantly limited for his age. The risk of reoffending was low. The effect of a custodial sentence is set out at paragraphs 46-47. He has engaged positively with the Youth Justice Service, he has a diagnosis of ADHD.

E In light of the foregoing again, I turn to the guidelines for Sentencing Offenders with Mental Disorders, Developmental Disorder and Neurological Impairments. I find E's culpability was significantly reduced by reason of his impairments. It is apparent from his actions at the scene of the offending and his behaviour during the filming.

F The detrimental effect of a potential custodial sentence has been set out by the psychologist and Youth Justice Service officer. E has been subject to a non qualifying curfew which I am asked to take into account, if necessary.

Step 4

G Given the convictions for the lead offences I do not need to consider the guilty pleas to the image counts, albeit where there were such pleas, that is to the credit of the children.

Step 5

A I must review the sentence to ensure it is appropriate. This will include an assessment of the likelihood of reoffending and the risk of causing serious harm. I note from the guideline that a YRO intensive level may be appropriate where there is a high likelihood of reoffending or a very high risk of serious harm. That assessment does not apply to any of the children here.

B The available sentences for J and N

For J and N, given their ages at conviction, five sentences are effectively available;

- C**
- i) a YRO (Youth Rehabilitation Order)
 - ii) a YRO with ISS (intensive supervision surveillance) or fostering
 - iii) a DTO (Detention and Training Order)
- D**
- iv) Grave crime detention
 - v) Extended detention

E I have come to the conclusion offences of which J and N were convicted crossed the custody threshold, however in light of the guidelines relating to children I am not bound to impose immediate custody. The parts of the guideline I have highlighted state the opposite. I am not going to repeat those parts of the guideline, I have already set out, save perhaps to highlight requirement that custody for children of J's and N's ages must be a last resort.

F Dangerousness

G I will deal section 255 of the Sentencing Act. I do not find that the criteria at section 255 (1)(c) are satisfied in this case, even if they were, then this is not a case where a sentence of 4 years would be imposed.

I make that finding by reason of the following:

- H**
- i) The ages of J and N
 - ii) The absence of previous offending
 - iii) The spontaneous nature of the offending
 - iv) The respective responses to custody and then bail restrictions

- A**
- v) The contents of the respective Pre-Sentence Reports and prospects of rehabilitation
 - vi) The family support
 - vii) The profound nature of N's limitations.

B

A point is taken on behalf of E, by way of an addendum, that a specific assessment is required before a finding is made of dangerousness. I am helpfully referred to *Charlie Woodhouse*, and I bear that very much in mind.

C

The available sentences for E

E does not qualify for custody, save an extended sentence or grave crime disposal, nor does he qualify for a YRO with ISS. He is not a persistent offender.

D

I do not find in his case that his offences crossed the custody threshold. Hence I do not need to consider grave crime or dangerousness. If I am wrong about that, then clearly his role was the most limited of the three and so could not receive a custodial sentence.

E

The rape guideline

Given my findings, I remind myself of the overarching guideline for children at paragraph 6.45:

F

“Only if the court is satisfied that the offences cross the custody threshold, and that no other sentence is appropriate, the court may as a preliminary consideration, consult the equivalent adult guideline in order to decide upon the appropriate length of sentence.”

G

Given my conclusion, I do not need to consider the adult rape guideline. However, so that the sentences I have passed can be understood I make the following preliminary observations, without having heard lengthy submissions as to categorisation.

H

As to harm, the only category 2 factor which is obviously apparent in either part is that of additional degradation, degradation by way of filming. However, filming features as a category 2 culpability factor hence the fact that the offences were committed with others

A means two such culpability factors are present. Hence category 3A will be the appropriate categorisation with an uplift for the fact of two victims for J and N, and a potential uplift for the two factors.

B I would not find as an aggravating factor the timing and location of the offences where children are involved. Indeed, in both parts of this case, there was consenting sexual activity between children, either in the later afternoon or at nighttime in public places. Even if the categorisation is 2A on the basis of particular vulnerability, about which I have made observations, I would then need to give careful consideration to reduced culpability.

C The mitigation I have alluded to, including primarily J's reduced capability and N's deficits would significantly reduce any figure identified in the adult guideline, before a very marked allowance of well over 66% as per the Sexual Offences Sentencing Children and Young People guideline and likely more for N.

D Given any likely custodial sentence, which would not be in the form of a grave crime or dangerousness disposal, I am quite satisfied that a YRO is required in the case of each child, particularly where an effectively significant sentences have already been served. Such sentences would meet the strict requirements of the children and young people guidelines I have referred to. The length of them will also provide the best prospect of rehabilitation and therefore the reduction of risk of further offending.

E I make clear the analysis of adult guideline is not necessary and does not determine the sentences. I simply make reference to it.

F Now so far as the sentences are concerned.

G J's sentence

There will be a Youth Rehabilitation Order for 3 years with Intensive Supervision and Surveillance for 180 days with the following components:

H Supervision

A curfew at the home address, 19:00 [sic] to 07:00, with a tag for a period of 3 months.

Specialist Harmful Sexual Behaviour Intervention

Prohibited Activity Requirement - no contact with either victim

A

Prohibited Activity Requirement - supervised contact between him, N and E, as approved by the supervising manager.

Activity Requirement for 30 days

B

I have made the Restraining Order in part one of my remarks (no contact with either victim for 10 years)

N's sentence

C

Again a Youth Rehabilitation Order for 3 years with Intensive Supervision and Surveillance for 180 days:

Supervision

D

A curfew at the home address, 19:00 to 07:00, with a tag for a period of 3 months

Specialist Harmful Sexual Behaviour Intervention

Prohibited Activity Requirement - no contact with either victim

Prohibited Activity Requirement - no contact with J or E, unless supervised and approved, by the supervising manager

E

Activity Requirement for 30 days

I have made the Restraining Order in part one of my remarks (no contact with either victim for 10 years)

F

E's sentence

Youth Rehabilitation Order for 18 months

G

Supervision

A curfew for 3 months 19:00 to 07:00

Prohibited Activity Requirement - no contact with either victim

Prohibited Activity Requirement - no contact with J or N, unless supervised and approved, by the supervising manager

H

Specialist Harmful Sexual Behaviour Intervention

Activity requirement for 15 days

Activity requirement - restorative justice engagement

Supporting with education

A I have made the Restraining Order in part one of my remarks (no contact with either victim for 10 years)

B I welcome some assistance so far as E is concerned as to whether it is recommend his curfew should be tagged, and whether I should impose that as I have done with the older defendants.

Miss Ayling: Would Your Honour give me a moment --

C **His Honour Judge Rowland:** Of course, yes.

Miss Ayling: In relation to that?

D **Mr Evans:** Your Honour, while my learned friend is considering that matter.

His Honour Judge Rowland: Yes.

E **Mr Evans:** I should have mentioned on behalf of J that in our short break his father had mentioned to me the timings of the proposed curfew in the report and he had asked whether it might be possible for the curfew to be between 8pm and 7am, the reason being that he often works away and previously, Your Honour knows that J often accompanies his father to work.

F **His Honour Judge Rowland:** Yes, well that's to his credit. I will do that --

Mr Evans: Thank you very much.

G **His Honour Judge Rowland:** Mr Evans. Thank you very much.

Miss Ayling: As far as the --

H **His Honour Judge Rowland:** Miss Ayling.

Miss Ayling: Tagging is concerned, you will note that the first report indicates that it could be by electronic monitoring, but the, that's withdrawn in her second report.

A

His Honour Judge Rowland: Yes.

Miss Ayling: And having reconsidered that the ISS should be removed we would submit that the electronic monitoring should also be removed.

B

His Honour Judge Rowland: Effectively, Miss Ayling, isn't that a doorstep condition --

C

Miss Ayling: Yes.

His Honour Judge Rowland: So far as E is concerned?

D

Miss Ayling: Yes.

His Honour Judge Rowland: So I will make a note of that, so doorstep. So the surcharges apply, I am told. Notification then will be for a period of two and a half years. I have deliberately structured those sentences for J and N, if they go past their 18th birthdays then they will fall under adult supervision. There was a recommendation for two years, I think, for J. I was not prepared to accede to that.

E

Now, is there anything else that I need to deal with? I will upload these remarks to the system, but with a caveat because I have departed from time to time. Is there anything else I'm asked to deal with?

F

Miss Mittell: I don't think, no, thank you.

G

His Honour Judge Rowland: Can I thank all counsel for their assistance in this case, not just in the build up to the sentencing hearing but also during the course of the trial as well. Nobody pretends that these are easy cases for anybody to be involved in, wherever they sit in, in the court, and if I may say so it is testament to how the system works that this sort of sensitive case can be dealt with in this way, with the benefit of extremely competent and experienced counsel, who are able to deal with these extremely difficult cases in the way

H

that they have, and if I may say so, it makes my task so much easier when having that benefit,
a great deal, a great wealth of experience across the board. That's how the --

A

Miss Ayling: Very kind of Your Honour. Thank you very much.

His Honour Judge Rowland: Well, that's how the system operates and how it works, and
long may that last. Let me give you that back, Miss Ayling.

B

Miss Ayling: Thank you very much.

His Honour Judge Rowland: Thank you all very much indeed. I shall rise.

C

Court Usher: Be upstanding in court.

D

The Transcription Agency hereby certifies that the above is an accurate and
complete recording of the proceedings or part thereof.

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